

**ORDINANCE #33
TOWN OF HANOVER**

ORDINANCE OF THE (BOARD OF SELECTMEN OR TOWN MEETING)

The Board of Selectmen or Town of Hanover ordain as follows:

**AN ORDINANCE REGULATING THE ALLOWABLE LEVEL OF NOISE AND
TYPES OF OUTDOOR ACTIVITIES WITHIN THE TOWN OF HANOVER**

I. Declaration of Purpose:

The purpose of this Ordinance is to regulate the making, creation or maintenance of such excessive, unnecessary or unusually loud noises that, in their time, place and manner, adversely affect and are a detriment to public health, comfort, safety and welfare of the residents of the Town of Hanover.

II. Title:

This ordinance shall be known and may be cited as the “Noise Ordinance of the Town of Hanover.”

III. Authority:

RSA 31:39, I (n).

IV. Definitions:

Construction: Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition;

Continuous Sound: Any sound that exists, essentially without interruption, for a period of 10 minutes or more;

Demolition: Dismantling or intentional removal of structures, utilities, public or private right-of-way surfaces or similar property;

Impulse noise: Any noise of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay;

Institutional “I” Zoning District: That area of the Town of Hanover which is so defined and delineated in the Zoning Ordinance of the Town of Hanover and which is shown on the attached Zoning Map;

Noise Disturbance: Any sound, whether a continuous sound or an impulse noise, which disturbs a reasonable person with normal sensitivities;

Noisy assembly: Any gathering of more than one person that creates excessive noise that creates a noise disturbance. Any such gathering between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of a structure or building in which it is located or, **in the case of multiple unit buildings, in another unit or a common**

area within the building, shall be prima facie evidence that the noise is excessive, disruptive, or disturbing;

Owner: Owner of the freehold of the premises or lesser estate therein, or mortgagee thereof, a lessee or agent of any of the above persons, a lessee of a device or his or her agent, a tenant, operator, or any other person who has regular control of a device or an apparatus.

Person: Any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.

Power tool: Any device powered mechanically, by electricity, by gasoline, by diesel fuel or by any other fuel, which is intended to be used or is actually used for, but shall not be limited to, the performance of such functions as cutting, nailing, stapling, sawing, vacuuming or drilling.

Residential property: Any real property developed and used for human habitation and which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation

Sound Amplification Device: Any apparatus for the amplification of sounds from any radio, phonograph, band, orchestra or other sound-making or sound-producing device, including any apparatus for the amplification of the human voice.

Undue Hardship: A situation or circumstance in which it is unreasonable to require the applicant to conduct the regulated activity during the hours permitted under the ordinance.

V. **SPECIFIC PROHIBITIONS:**

A. **Prohibited Acts:**

It shall be unlawful for any person to create or cause a noise disturbance.

B. **Noise/Time Restrictions:**

1. It shall be unlawful for any person to create or cause a noise disturbance in any location that is audible at any residential property between the hours of 10:00 PM and 7:00 AM.
2. It shall be unlawful for any person to carry on the following activities within three hundred (300) feet of any residential property **if they create a noise disturbance that generates a complaint:**
 - a. Between 10:00 p.m. and 7:00 a.m. created by loading, unloading, opening, closing, or otherwise handling boxes,

- crates, containers, building materials, trashcans, dumpsters or similar objects.
- b. Between 10:00 p.m. and 7:00 a.m. (Monday through Saturday) and 10:00 p.m. and 10:00 a.m. (Sunday) created by:
- (1) The operation or use of construction vehicles to include, but not limited to, bulldozers, graders, dump trucks, backhoes, earthmoving equipment, front end loaders and log skidders, whether involved in construction or demolition or similar activity;
 - (2) The operation or use of tools, power tools, or construction equipment to include, but not limited to: cement mixers, hammers, staple or nail guns, power tools (i.e., saws, drills, grinders, sanders, chain saws, lawnmowers, electric hedge trimmers, lawn edgers, **leaf blowers**, and jack hammers), whether involved in construction, demolition, repair, maintenance, or similar activity; and
 - (3) The operation or use of agricultural equipment to include, but not limited to, tedders, balers and tractors.
- c. Between 10:00 p.m. to 7:00 a.m. (Sundays through Thursdays) and 11:00 p.m. to 7:00 a.m. (Fridays and Saturdays) created by operating, playing, or using of any radio, television, phonograph, drum, musical instrument, sound amplifier, or any other sound amplification device; or through the conduct of a noisy assembly.

VI. **EXEMPTIONS:**

The following uses and activities shall be exempt from noise level regulations:

- A. Noise of safety signals, warning devices, and emergency pressure relieve valves;
- B. Noises resulting from any authorized vehicle when responding to an emergency call or acting in time of emergency;
- C. Noise resulting from emergency maintenance work or work that cannot be performed during the day due to mitigating factors such as traffic volume, as performed by the Town, **the School District**, the State, public utility companies, **Dartmouth College**, or **a private property owner in the event of a legitimate emergency**;
- D. Noise resulting from snow removal operations performed by the Town, the State, Dartmouth College, and other types of private or commercial snow removal operations;

- E. Any other noise resulting from activities of a temporary duration permitted by the law and for which a license or permit therefore has been granted by the Town;
- F. Parades and public gatherings for which the Town Manager has issued a permit;
- G. Bells, chimes or carillons while being used for religious purposes or in conjunction with religious services, and those bells, chimes, or carillons that are presently installed and in use for any purpose.
- H. Non-amplified human voices and crowd noises generated at gatherings open to the public.
- I. Any noise which is audible only within the Institutional "I" Zoning District.

VII. EXCEPTIONS:

- A. Application for an Exception for relief from **the provisions of** this ordinance on the basis of undue hardship may be made to the Town Manager. Any such permit granted by the Town Manager shall set forth all conditions pertaining to the specified noise, and a reasonable time limit for its abatement.
- B. Process:
 - 1. Registration Statement: Any Person who wants to use sound amplifying equipment or a musical instrument on any street, sidewalk, park, a public place, or in a private place which could be heard in another private or public place; or conduct any of the activities described above, shall file a Registration Statement requesting a Permit with the Chief of Police no less than five (5) days prior to the date on which the sound amplifying equipment is intended to be used, which shall contain the following information:
 - a. The name, address and telephone number of the person who owns and seeks to use or operate the sound amplifying equipment or musical instrument;
 - b. The maximum sound producing power of the sound amplifying equipment or musical instrument, which shall include the wattage to be used, the volume and decibel level of sound which will be produced, and the approximate distance for which sound will be audible from the sound amplifying equipment or musical instrument;
 - c. Whether the sound amplifying equipment or musical instrument will be used for commercial or noncommercial purposes;

- d. A general description of the sound amplifying equipment or musical instrument that is to be operated.
- e. The hours when, and the location where, such sound amplifying equipment or musical instrument will be operated.
- f. Supply any other information that the Town Manager, Chief of Police, Fire Chief, Zoning Administrator, Public Works Director or any other town department head deems necessary.

g. Permit:

The Chief of Police shall submit the registration statement to the Town Manager with his recommendation on whether or not the permit shall be approved. An approved certified copy of the Permit shall be returned to the applicant within a reasonable period of time, not to exceed five (5) days after the date upon which the applicant has filed a Registration Statement, unless it was found that:

- (1) The conditions of motor vehicle or pedestrian movement are such that the use of the sound amplifying equipment or musical instrument would constitute a detriment to traffic or pedestrian safety; or
- (2) the Registration Statement reveals that the applicant would not be able to comply with the Standards of Issuance; or
- (3) the information contained in the Registration Statement is false or nonexistent in any material detail.

If the Chief of Police disapproves the Registration Statement, he shall state the reason for his denial of a Permit.

2. Standards of Issuance:

The use of the sound amplifying equipment or musical instrument shall be subject to the following regulations:

- a. The operation of the sound amplifying equipment or musical instrument shall only occur between the hours of 7:00 a.m. and 10:00 pm on Sunday through Thursday, and between 7:00 am and 11:00 pm on Friday and Saturday.

3. Appeal Procedure:

Any Person aggrieved by a denial of a Permit shall have the right to appeal the denial to the Board of Selectmen. The appeal shall be

taken within seven (7) days after the rejection of the Permit. The Board of Selectmen shall act upon the appeal no more than ten (10) days after its receipt. Upon such appeal, the Board of Selectmen may reverse, affirm or modify in any regard the determination of the Chief of Police or Town Manager.

4. Late Applications:

The Chief of Police, where good cause is shown therefore, shall have the authority to approve any Registration Statement hereunder which is filed less than five (5) days before the date such Sound Amplifying Equipment or musical instrument is proposed to be used.

5. Possession and Display of Permit:

The Permit that a Person receives shall be kept at all times, during the use or operation of the Sound Amplifying Equipment or musical instrument, where it can be readily obtained and promptly shown to any police officer of the Town of Hanover.

VIII. Exclusions:

These requirements shall not apply where such matters are governed by State Law.

IX. Penalties for Violation of Ordinances:

Unless otherwise stated, any person or unnatural person within the meaning of the Criminal Code, who violates an ordinance shall be guilty of a violation. Any Person who shall violate any provision of this Ordinance, upon conviction thereof, shall be penalized by a fine of not more than **\$300 for the first violation, \$500 for the second violation, and \$1,000.00 for third and subsequent violations thereafter.** The owner of a property on which a noise disturbance occurs shall be held liable for such noise disturbance. Pursuant to RSA 502-A:11-a, the District Court shall have jurisdiction of the prosecution of any violation of the Town of Hanover Ordinances. All fines collected shall be for the use of the Town. The enforcement authority may issue a summons and complaint along with a notice of fine pursuant to the procedures for pleas by mail set out in RSA 502-A:19-b.

X. Severability:

If any provision of this ordinance is held to be unconstitutional or otherwise invalidated by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

XI. EFFECTIVE DATE

Having held a public hearing, the Board of Selectmen voted to adopt this Ordinance on the _____ day of _____, 2001, which shall be the effective date hereof.

IN WITNESS WHEREOF, a majority of the Board of Selectmen have hereunder set their hands.

TOWN OF HANOVER
BOARD OF SELECTMEN

Chair

Vice Chair

REGULATION OF OUTDOOR ACTIVITIES:

- J. Outdoor Amplification; Parade or Foot Race; Blocking of Road, Sidewalk or Access to Structure; Fireworks; or Other Activity Which May Result in Substantial Production of Noise or Disruption of the Normal Flow of Activities: